

REMARKS

Claims 1-5 are all the claims pending in the application. Claims 4 and 5 have been withdrawn from consideration as being drawn to a non-elected invention. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

Drawings

On May 7, 2002, Applicants submitted a Request for Approval of Proposed Drawing Corrections. However, the Examiner made no comment on the proposed drawing corrections. Accordingly, Applicants re-submit herewith a Request for Approval of Proposed Drawing Corrections, and respectfully request that the Examiner comment thereon.

Claim Rejections - 35 U.S.C. § 112

The Examiner rejected claims 1-3 under § 112, 2nd paragraph, as incomplete for omitting essential structural cooperative relationships of elements. Specifically, the Examiner asserted that the omitted elements are details regarding the active layer and its arrangement in the apparatus. Applicants have amended claim 1 so as to specifically recite an active layer and a clad layer, which are inherent in the laser substrate as previously set forth. Accordingly, such an amendment does not narrow the claims, it merely redefines or rearranges what was already included and, therefore, does not subject the claim to prosecution history estoppel. See: *Turbocare Corp. v. General Electric Co.*, 60 USPQ.2d 1017 (Fed. Cir. August 29, 2001) (*Festo*¹ is not applicable to a claim wherein a limitation is only redefined without narrowing the claim.). See also *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 2002 U.S. LEXIS 3818, *27 (May 28, 2002).

¹ *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 234 F.3d 558, 56 USPQ.2d 1865 (Fed. Cir. 2000) (*en banc*), vacated and remanded, 2002 U.S. LEXIS 3818, (May 28, 2002).

Claim Rejections - 35 U.S.C. § 102

The Examiner rejected claims 1-3 under §102(b) as being anticipated by US Patent 5,459,747 to Takiguchi et al. (hereinafter Takiguchi). Applicants respectfully traverse this rejection because Takiguchi fails to disclose every element as set forth and arranged in Applicants' claims.

Claim 1 is directed to "A DFB type semiconductor laser device comprising a laser part including an active layer and a clad layer, a grating layer, an insulating layer and an electrode layer laminated in order, the insulating layer including at least one gap extending in a direction transverse to a grating of the grating layer so that the electrode layer contacts the grating layer and the clad layer."

According to one embodiment of the present invention, the DFB type semiconductor laser device comprises a laser part, a grating layer (7a), an insulating layer (8) and an electrode layer (20). The laser part includes an active layer (4) and a clad layer (6). The electrode layer (20) contacts the grating layer (7a) and the clad layer (6) through gratings of the grating layer (7a).

In contrast to that set forth in claim 1, it is clear that Takiguchi does not disclose such an electrode layer contacting both of a clad layer (4a, 4b) and a grating layer (5). Instead, an electrode (7) is disposed on a contact layer (6) and an electrode 8 is disposed on a insulating layer (12).

For at least any of the above reasons, Takiguchi fails to anticipate claim 1. Likewise, this reference fails to anticipate dependent claims 2 and 3.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.111
U.S. Appln No. 09/482,099

Atty. Dkt No. Q57433

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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PATENT TRADEMARK OFFICE

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APPENDIX
VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 1 and 2 have been amended as follows.

1. A DFB type semiconductor laser device comprising a laser part including an active layer and a clad layer [substrate] a grating layer, an insulating layer and an electrode layer laminated in order, the insulating layer including at least one gap extending in a direction transverse to a grating of the grating layer so that the electrode layer contacts the grating layer and the [a] clad layer.

2. The DFB type semiconductor laser device according to claim 1, wherein [the laser substrate comprises a waveguide layer] the active layer is composed of at least InGaAsP and the [a] clad layer is composed of p-InP, and the grating layer is composed of InGaAs